

ESTTA Tracking number: **ESTTA285815**

Filing date: **05/26/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Califon Productions, Inc.		
Entity	Corporation	Citizenship	California
Address	10202 West Washington Boulevard Culver City, CA 90232 UNITED STATES		

Attorney information	Richard S. Mandel Cowan Liebowitz & Latman 1133 Avenue of the Americas New York, NY 10036 UNITED STATES rsm@cll.com, lsf@cll.com, eck@cll.com, trademark@cll.com Phone:212-790-9200
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### Applicant Information

Application No	77645232	Publication date	04/28/2009
Opposition Filing Date	05/26/2009	Opposition Period Ends	05/28/2009
Applicant	Bally Gaming, Inc. Attn: Pamela Bowsher, Law Department 6601 South Bermuda Road Las Vegas, NV 89119 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Gaming devices, namely, slot machines with or without video output
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### Grounds for Opposition

Other	See attached pleading.
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Attachments	WHEEL OF WONDER Notice of Opposition.pdf ( 5 pages )(16647 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Elise Kasell/
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Name	Elise Kasell
Date	05/26/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 77/645,232  
Published in the *Official Gazette* of April 28, 2009

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CALIFON PRODUCTIONS, INC., : Opposition No.

Opposer, :

- against - :

**NOTICE OF OPPOSITION**

BALLY GAMING, INC. dba BALLY :  
TECHNOLOGIES, :

Applicant. :

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CALIFON PRODUCTIONS, INC. ("Opposer"), a corporation organized and existing under the laws of California, believes that it will be damaged by registration of the mark shown in Application Serial No. 77/645,232 filed January 7, 2009 and hereby opposes same.

As grounds of opposition, Opposer alleges as follows:

1. For many years, Opposer, its predecessors in interest and/or related companies have been engaged in the business of producing, distributing and licensing audiovisual entertainment properties in various media and merchandising goods associated with such properties, including, without limitation, slot machines.

2. As early as January 6, 1975, Opposer's predecessor began using the WHEEL OF FORTUNE mark in the United States in connection with the most popular game show in the history of television and the highest rated series ever in national syndication. To date, more than 5,000 episodes of WHEEL OF FORTUNE have been exhibited nationwide in

more than 200 U.S. television markets. The WHEEL OF FORTUNE series has been and is viewed nationwide by tens of millions of U.S. consumers and has been and is extensively advertised and promoted. In addition, there have been officially licensed local language television versions of WHEEL OF FORTUNE produced and broadcast in many countries throughout the world.

3. Further increasing the widespread recognition and fame of the WHEEL OF FORTUNE mark, Opposer and Opposer's predecessor have licensed it for use on and in connection with a wide variety of products including, but not limited to, slot machines in operation in Las Vegas and other locations. Indeed, WHEEL OF FORTUNE slot machines are the most popular gaming machines ever made.

4. As a result of the foregoing efforts by Opposer and its predecessors and related companies, Opposer has achieved a goodwill of incalculable value in the WHEEL OF FORTUNE mark, which is exclusively associated with Opposer and its WHEEL OF FORTUNE game show.

5. Opposer is also the owner of, *inter alia*, the following federal trademark registrations:

<u>MARK</u>	<u>REG. NO.</u>	<u>GOODS/SERVICES</u>	<u>REG. DATE</u>
WHEEL OF FORTUNE	1,491,261	board games	6/7/88
WHEEL OF FORTUNE	1,491,571	entertainment services rendered through the media of television, namely, a television series game show	6/7/88
WHEEL OF FORTUNE	1,542,716	computer game programs	6/6/89
WHEEL OF FORTUNE	2,228,652	slot machines	3/2/99

These registrations are all valid, subsisting, in full force and effect and have become incontestible.

6. On or about January 7, 2009, Applicant filed an intent-to-use application in the United States Patent and Trademark Office, Serial No. 77/645,232, for registration on the Principal Register of the trademark WHEEL OF WONDER for "gaming devices, namely, slot machines with or without video output" in International Class 9.

7. Upon information and belief, Applicant has made no use of the WHEEL OF WONDER mark in the United States as of the present time.

8. Upon information and belief, the goods for which Applicant seeks registration of the mark WHEEL OF WONDER will be offered through the same channels of distribution and/or to the same classes of purchasers as the goods and services offered by Opposer under the mark WHEEL OF FORTUNE.

9. Applicant's mark WHEEL OF WONDER so resembles Opposer's mark WHEEL OF FORTUNE as to be likely, when used in connection with the Applicant's goods, to cause confusion or to cause mistake or to deceive in that prospective consumers of Applicant's goods are likely to believe, erroneously, that the goods are provided or sponsored by Opposer or connected with Opposer and/or its WHEEL OF FORTUNE goods and services in some other way.

10. Opposer's WHEEL OF FORTUNE mark is distinctive and famous and has enjoyed such distinctiveness and fame since long prior to the filing date of Applicant's application to register the WHEEL OF WONDER mark.

11. Applicant's use and/or registration of the WHEEL OF WONDER mark is likely to dilute the distinctiveness of Opposer's famous WHEEL OF FORTUNE mark.

12. Opposer would be injured by the granting to Applicant of the registration sought because Applicant's mark WHEEL OF WONDER so resembles Opposer's mark WHEEL OF FORTUNE as to be likely, when used in connection with Applicant's goods:

- (a) to cause confusion, or to cause mistake, or to deceive;
- (b) to falsely suggest a connection with Opposer;
- (c) to damage Opposer's valuable goodwill in its WHEEL OF FORTUNE mark;
- (d) to interfere with Opposer's sale of its own goods and services under its WHEEL OF FORTUNE mark; and
- (e) to dilute the distinctiveness of Opposer's WHEEL OF FORTUNE mark.

WHEREFORE, Opposer, by its attorneys, respectfully requests that its opposition be sustained and that the registration sought by Applicant be denied.

Dated: New York, New York  
May 26, 2009

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.  
Attorneys for Opposer

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this Notice of Opposition was served upon the correspondent for the opposed application by mailing a copy thereof by first class mail, postage prepaid, on May 26, 2009 addressed as follows:

Bally Gaming, Inc.  
6601 South Bermuda Road  
Attn: Pamela Bowsheer, Law Department  
Las Vegas, Nevada 89119

/Richard S. Mandel/  
RICHARD S. MANDEL, ESQ.